

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Cheri Marie Hanson, as trustee for the next of kin of Andrew Derek Layton, Case No.: 15-CV-04578 (MJD/SER)

Plaintiff,

vs.

Daniel Best, Audrey Burgess, Craig Frericks, Kyley Groby, Matthew Huettl and Kenneth Baker, individually and acting in their official capacities as City of Mankato Department of Public Safety Police Officers; The City of Mankato; Gold Cross Ambulance, Michael Jason Burt, and Thomas John Drews,

Defendants.

AFFIDAVIT OF JOSEPH E. FLYNN

STATE OF MINNESOTA)
)ss:
COUNTY OF WASHINGTON)

JOSEPH E. FLYNN, being first duly sworn, under oath, deposes and states as follows:

1. I am one of the attorneys representing the “City of Mankato” Defendants Daniel Best, Audrey Burgess (n/k/a Kranz), Craig Frericks, Kyle Groby (n/k/a Lindholm), Matthew Huettl, Kenneth Baker and the City of Mankato, in the above-referenced matter and this Affidavit is submitted in support of Defendants’ Motion to Compel Discovery from Plaintiff.

2. Attached hereto and marked as Exhibit 1 is a true and correct copy of the “City of Mankato” Defendants First Set of Interrogatories to Plaintiff.

3. Attached hereto and marked as Exhibit 2 is a true and correct copy of the “City of Mankato” Defendants First Set of Requests for Production of Documents to Plaintiff.

4. Attached hereto and marked as Exhibit 3 is a true and correct copy of the “City of Mankato” Defendants Request for Production of Medical to Plaintiff.

5. Attached hereto and marked as Exhibit 4 is a true and correct copy of the “City of Mankato” Defendants Request for Production of Statements to Plaintiff.

6. Attached hereto and marked as Exhibit 5 is a true and correct copy of your affiant’s e-mail to Attorney James Behrenbrinker granting Plaintiff’s request for an extension to respond to discovery until April 22, 2016, but requesting signed authorizations, if possible, prior to that date.

7. Attached hereto and marked as Exhibit 6 is a true and correct copy of Plaintiff Attorney James Behrenbrinker’s e-mail of April 25, 2016 to defense counsel indicating that Plaintiff’s discovery responses were served by mail on Friday, April 22, but indicating that they failed to provide a CD/DVD with various videos relating to the incident.

8. Attached hereto and marked as Exhibit 7 is a true and correct copy of your affiant’s e-mail dated May 2, 2016 to Attorney James Behrenbrinker acknowledging receipt of Mr. Behrenbrinker’s e-mail of April 25, 2016, but indicating that no written discovery responses had been received.

9. Attached hereto and marked as Exhibit 8 is a true and correct copy of Plaintiff’s Answers to “City of Mankato” Defendants’ First Set of Interrogatories.

10. Attached hereto and marked as Exhibit 9 is a true and correct copy of Plaintiff’s Responses to “City of Mankato” Defendants’ First Set of Request for Production of Documents.

11. Attached hereto and marked as Exhibit 10 is a true and correct copy of a letter dated June 2, 2016 from counsel for the “City of Mankato” Defendants to Plaintiff’s counsel requesting supplementation of discovery responses.

12. Attached hereto and marked as Exhibit 11 is a true and correct copy of the “City of Mankato” Defendants’ *Supplemental* Interrogatories to Plaintiff.

13. Attached hereto and marked as Exhibit 12 is a true and correct copy of the “City of Mankato” Defendants’ *Supplemental* Request for Production of Documents to Plaintiff.

14. Attached hereto and marked as Exhibit 13 is a true and correct copy of Mr. Behrenbrinker's e-mail of July 5, 2016 in response to defense counsel's June 2, 2016 correspondence requesting supplementation of discovery responses.

15. Attached hereto and marked as Exhibit 14 is a true and correct copy of Plaintiff counsel Bryce Miller's correspondence to counsel for the City of Mankato Defendants dated July 15, 2016 providing signed authorizations in supplementation of discovery.

16. Attached hereto and marked as Exhibit 15 is a true and correct copy of Plaintiff counsel Bryce Miller's correspondence dated July 5, 2016 serving Plaintiff's supplemental discovery responses, along with Plaintiff's Answers to "City of Mankato" Defendants *Supplemental* Requests for Production of Documents and Plaintiff's Answers to "City of Mankato" Defendants' *Supplemental* Interrogatories.

17. Attached hereto and marked as Exhibit 16 is a true and correct copy of Magistrate Judge Franklin Noel's Order dated July 21, 2016 issued in the case of *Henderson v. City of Woodbury, et al.*, Case No. 15-3332 (RHK/FLN), regarding the City of Woodbury Defendants' Motion to Compel Discovery from Plaintiff Henderson.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

s/ Joseph E. Flynn
Joseph E. Flynn

Subscribed and sworn to before me
this 25th day of July, 2016.

s/ Nancy A. Hendrickson
Notary Public

My Commission Expires January 31, 2020